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# National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

## Poland

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# I. Introduction – methodology and consultations

1. This report has been drafted for the purposes of the third Universal Periodic Review (UPR) of human rights in Poland. Under the general guidelines laid down by the Human Rights Council in its decision 17/119, it focuses on human rights developments in Poland since the last review, and on the progress in the implementation of the recommendations received during the second UPR in 2012. The report is the result of inter-ministerial consultations with contributions from the Commissioner for Human Rights (CHR) – and the Ombudsman for the Rights of the Child (ORC), and its preliminary draft has been consulted with representatives of NGOs and the relevant parliamentary committees.

# II. Development of normative and institutional human rights protection framework

2. The legal and institutional framework of human rights protection and promotion in Poland has a solid foundation. Detailed information has been provided in Poland's reports during the first and second UPRs (A/HRC/WG.6/1/POL/1 and A/HRC/WG.6/13/POL/1). Furthermore, the 2014 mid-term report describes the progress in implementing the recommendations received during the second UPR.

3. The key institutional changes since Poland's last UPR, aiming to put in place an effective cooperation mechanism within the public administration at the central and regional levels with respect to equal treatment, include the appointment of equal treatment coordinators in each ministry and in the Prime Minister's Chancellery (Chancellery) as well as voivode[1] plenipotentiaries for equal treatment in the voivodship offices.

4. A 2016 Regulation of the Council of Ministers appointed the Government Plenipotentiary for Civic Society (PCS). The PCS's responsibilities include the preparation and monitoring of the national civic society development programme, and the coordination and monitoring of cooperation between the public administration and NGOs and other civic institutions.

5. The following new legislation protecting and promoting human rights has been passed since 2011:

- new Foreigners Act, i.e., the Act of 12 December 2013 on Foreigners, took effect on 1 May 2014 (for additional information, see sections on combatting human trafficking and conditions of detention of migrants);
- Act of 10 September 2015 amending the Act on Granting Foreigners Protection in the Territory of Poland and certain other Acts, took effect on 13 November 2015 and implements the "asylum package" (for additional information, see section: "Preventing discrimination against migrants").

6. Since the second UPR, Poland has ratified or signed the following international conventions:

- Council of Europe (CoE) Convention on Preventing and Combating Violence against Women and Domestic Violence, made in Istanbul on 11.05.2011; ratified on 13.04.2015; took effect on 1.08.2015 (recommendations 27 and 28);
- CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25.10.2007, made in Lanzarote (Lanzarote Convention), took effect on 20.02.2015;

- Convention on the Rights of Persons with Disabilities (CRPD); ratified on 6.09.2012 (recommendations 2, 7, 16, 17, 18, 19, 21);
- Convention for the Protection of all Persons from Enforced Disappearance, signed on 25.06.2013. Ratification requires harmonisation of domestic family law with the Convention (recommendations 1, 20, 22, 23, 24);
- the Kampala amendment to the Second Optional Protocol to the Rome Statute of the International Criminal Court; ratified on 25.09.2014 (recommendation 26);
- Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), amending the rules of procedure of the European Court of Human Rights (ECtHR) and amending the Preamble to the Convention, signed on 09.04.2014, ratified on 10.09.2015;
- Second Optional Protocol to the International Covenant on Civil and Political Rights of 15 December 1989; ratified on 25 April 2014 (recommendations 3, 5, 6, 8, 9);
- Additional Protocol to the CoE Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, made in Strasbourg on 28.01.2003, took effect on 20.02.2015;
- CoE Convention against Trafficking in Human Organs, signed on 25.03.2015;
- Optional Protocol to the Convention on the Rights of the Child (CRC) on communication procedure, signed on 30.09.2013 (recommendation 25);
- Protocol No. 29 to the 1930 Forced Labour Convention, made in Geneva on 11 June 2014, ratified on 23.11.2016.

7. In 2013, Poland withdrew the reservations to Article 7 and Article 38 of the CRC and amended the declaration to the Optional Protocol to the CRC on the involvement of children in armed conflict.

## III. Cooperation with international human rights protection mechanisms

8. Poland fully cooperates with the international human rights mechanisms. Poland has presented reports on the implementation of:

- CRC – in 2012 (Committee session in 2015);
- CRPD – in 2014 (Committee session date not fixed);
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – in 2015 (Committee session in 2016);
- International Covenant on Civil and Political Rights (ICCPR) – report for the period 2008 – 2015 (Committee session in 2016);
- Convention on the Elimination of All Forms of Discrimination against Women – report for 2002–2010 (Committee session in 2014);
- Convention on the Elimination of All Forms of Racial Discrimination– report for August 2009 – December 2011 (Committee session in 2014);
- Poland presents annual reports on the implementation of the European Social Charter (CoE Convention).

9. Poland has extended a standing invitation to all the UN human rights special procedures.

# IV. Development of human rights promotion and protection – implementation of second UPR recommendations accepted by Poland

10. In the last four years, Poland has accepted new international obligations and implemented, in whole or in part, a range of recommendations of the second UPR (see paragraph 6).

## A. Right to life, freedom and security

### Preventing torture and inhuman or degrading treatment and punishment

11. The Constitution of Poland (Constitution) prohibits corporal punishment (Article 40). The Family and Guardianship Code prohibits corporal punishment by persons who exercise the duties of parents or guardians of minors. The Criminal Code (CC) guarantees bodily integrity and inviolability and penalises any breach thereof. Since the second UPR, the ORC has developed further social campaigns promoting the right of a child to be raised free of violence (**recommendation 41**).

12. Poland has maintained a standing invitation to all special procedures since 2001 and approved all requests for national visits (**recommendation 42**).

13. All acts of torture or other inhuman or degrading treatment are penalised under the Polish CC, prosecuted *ex officio*, and penalised adequately to the gravity of the act. Poland is a signatory of the Convention for the Prevention of Torture and presents regular reports on its implementation. Poland has ratified the Optional Protocol and established a national prevention system (delegated to the CHR) (**recommendation 72**).

14. The National Public Prosecutor's Office (Prosecutor's Office) monitors cases regarding crimes under Article 246 of the CC (extortion of testimony by public officials), Article 247 of the CC (abuse of persons deprived of liberty) and crimes related to the deprivation of life committed by officials during or in connection with their professional duties. In 2014, the General Public Prosecutor issued guidelines on proceedings handled by public prosecutors regarding crimes related to the deprivation of life or inhuman or degrading treatment and punishment where the perpetrator is a police officer or other public official. The guidelines were issued in implementation of ECtHR judgments and to ensure effective and prompt investigation of reports and complaints regarding torture and inhuman treatment of persons deprived of liberty. Every regional public prosecutor's office and every district public prosecutor's office has a coordinator for crimes committed by police officers who supervises and monitors such cases. Training is provided with the participation of public prosecutors and officers of the Internal Affairs Bureau of the Central Police Headquarters, dedicated to the methodology of investigating police officers and employees (**recommendation 58**).

15. Police officers are investigated by public prosecutors. Individual investigative measures may be delegated to the police or other competent services only in exceptional cases and to a limited extent. This safeguards the independence of the procedure. Concerning the demonstration in November 2011, the suspected police officer has been investigated. As a result, the District Court of Warszawa-Śródmieście found the suspect guilty of an act defined in Article 231 (1) of the CC (abuse of power) in conjunction with Article 217 (1) of the CC (violation of bodily integrity) and sentenced him to six months of deprivation of liberty conditionally suspended for three years. Furthermore, the court banned him from the profession of police officer, detective and other professions providing persons or property security for a period of eight years.[2] (**recommendation 73**)

**Pre-trial detention and conditions in prisons (recommendations 74, 75, 76, 77, 91)**

16. A range of legislative and organisational measures have been taken to improve the conditions in prisons and to comply with the international standards. As a result, there has been no overcrowding in Polish prisons since 2010.

17. The Government is taking further steps to increase the space in square meters per inmate. The minimum space per inmate under Polish law is 3 square meters. The occupancy of prisons was 86.9% as at 14 October 2016.

18. Steps taken to decrease the population density in prisons include:

- giving persons sentenced to deprivation of liberty (up to one year) the option to serve the time outside of prisons under the Electronic Surveillance System;
- a new principle introduced in the CC as of early 2012 whereby the penalty of deprivation of liberty and the penalty of detention in substitution for a fine that is not paid shall be served last (which allows those sentenced to pay the cash amount outstanding under the fine);
- less serious crimes penalised by the deprivation of liberty have been converted into offences penalised by detention up to 30 days, restriction of liberty, or a fine;
- the principles of sentencing and serving the penalty of restriction of liberty have been amended to apply the penalty more broadly, among others by extending the list of entities in which those sentenced persons may serve and by the State Treasury taking over a part of the costs of their service;
- a significant criminal law reform is underway, aiming to improve the efficacy and expand the options of using non-custodial penalties.

19. Key legislative amendments aimed at limiting the application of the penalty of deprivation of liberty include:

- the option of imposing a fine or the penalty of restriction of liberty instead of the penalty of deprivation of liberty for acts subject to the penalty of deprivation of liberty up to eight years (five years until July 2015);
- non-custodial penalties are a priority as an alternative for crimes subject to the penalty of deprivation of liberty for up to five years;
- the time after which the conviction is spent by operation of the law has been shortened: for the penalty of restriction of liberty, from five years to three years after the conviction was served or pardoned or after the limitation of serving the conviction; for a fine, from five years to one year after the conviction was served or pardoned or after the limitation of serving the conviction (changes effective as of March 2015).

20. The number of pre-trial detentions has been steadily decreasing for over a decade. In 2005–2015, the total number of persons in pre-trial detention decreased gradually (from 34,549 in 2005 to 8,619 in 2015). The decrease follows a broader application of less onerous pre-trial measures necessary to safeguard proper criminal procedure, including bail, prohibition on leaving the country, and police supervision.

21. In 2005–2015, following a comprehensive amendment of the rules of criminal procedure, the total number of non-custodial pre-trial measures increased steadily:

- number of cases under police supervision, from ca. 1,650 to ca. 8,000;
- number of cases with bail, from ca. 2,900 to ca. 6,900;
- number of cases with prohibition on leaving the country, from ca. 2,100 to ca. 4,500.

22. The duration of pre-trial detention has also decreased in recent years. The duration of pre-trial detention was cut by more than half in 2005–2015.

23. It should be noted that the Minister of Justice has been monitoring cases of pre-trial detention since 2012. Regional public prosecutor offices monitor cases where the duration of pre-trial detention exceeds nine months. The Prosecutor's Office monitors cases where the duration of pre-trial detention exceeds 12 months. An amendment of the Code of Criminal Procedure (CCP) effective since April 2016 prohibits the previously legal application of pre-trial detention to crimes subject to the penalty of deprivation of liberty for up to one year.

24. The National School of the Judiciary and Public Prosecution offers regular training which promotes international standards including pre-trial detention. A systemic training series opened in 2012 covers the most frequent ECHR violations concerning the judicial system ruled by the ECtHR against Poland, including excessive length of pre-trial detention. As a target, all common court judges will undergo training within five to seven years.

25. The efficacy of these measures is corroborated by the fact that the CoE Committee of Ministers closed supervision of Poland's implementation of 172 ECtHR judgments concerning the excessive duration of pre-trial detention (Trzaska group).

**Work of judicial system (recommendations 87, 88, 89, 90, 92, 93)**

26. Efforts continue to enhance the efficiency of the judicial system in order to step up judicial proceedings and reduce delays in on-going review of cases. The number of judge positions has remained stable; however, importantly, the number of auxiliary staff supporting judges has increased, coupled with a broader contribution of court clerks (*referendarz sądowy*) who review less complex cases and reduce the workload of judges. The number of assistant positions increased by more than 11% from 2014 to the first half of 2016.

27. The position of trainee judge (*asesor sądowy*) was re-established in common courts in 2016. The objective is to better safeguard the right to fair and transparent trial without undue delay in the competent independent court.

28. Spending on the judicial system has been steadily growing for several years. A clear uptrend has been reported since 2000. Spending increased by 3.2% year-on-year in 2014 and by another 2.5% in 2015. Court infrastructure investment has also risen.

29. A system of free-of-charge legal assistance has been in place since 2016, available at 1,524 locations across Poland. Some of the locations are operated by specialised NGOs (selected in an open competition). The number of assistance locations depends on the population in the area. Advisory is available at the pre-trial stage to eligible individuals (including people under 26 or over 65). In total, 98,988 advisory services were provided in the first quarter of 2016 alone.

**Police measures to prevent police misconduct (recommendations 58 and 95)**

30. Paragraph 14 presents measures taken by the Prosecutor's Office with regard to crimes related to deprivation of life and inhuman or degrading treatment and punishment committed by police officers and other public officials.

31. To prevent police officer misconduct, a strategy was approved in 2015 to prevent human rights violations by police officers. The strategy identifies key areas of human rights safeguards in the police force as well as solutions to be implemented.

32. Since January 2010, the CHR acting as an independent institution responsible for investigating police officer and border guard misconduct receives reports on events involving police officers which might constitute human rights violations by officers. The mechanism is described in the UPR mid-term report concerning the implementation of the recommendation.

33. The Central Police Headquarters has taken many preventive measures including training, meet-ups and reviews of individual cases of misconduct on duty. A manual for new police officers has been released. Approximately 3,000 training sessions and meet-ups have been held since January 2014.

34. Under the *Key Directions of Education and Information Initiatives to Protect Human Rights and Freedoms and the Equal Opportunities Strategy of the Police in 2016–2018*, preparations have been launched to support education and information initiatives aimed at professionalization of police involvement in safeguarding human rights and freedoms, professional codes of ethics, and equal treatment.

35. In view of the Government's measures, the CoE Committee of Ministers concluded on 8 June 2016 that the ECtHR judgements concerning disproportionate use of force by police officers and ineffective prosecution, known as the Dzwonkowski group, had been implemented (cf. Resolution CM/ResDH(2016)148).

**Human trafficking and helping victims (recommendation 82)**

36. The National Intervention and Consultation Centre, launched in 2006, provides professional assistance to victims of trafficking in humans. The responsibilities of the Centre, which is financed by the central government, are delegated to NGOs (selected in an open competition). The Centre's main responsibilities include informal identification of victims of trafficking in humans, interventions, provision of safe shelters, medical, legal, psychological assistance, interpreter services, and prevention advice and consultations.

37. The Centre offers accommodation in its shelters and safe accommodation of young children in housing and educational institutions. Several specialty facilities for victims who are minors operate in Poland.

38. The Centre has trained and experienced staff, and cooperates with many institutions and organisations in providing support to victims of human trafficking who are minors. Given the growing number of identified victims of trafficking in humans, this model of support will most likely be extended in the coming years.

39. Building on efforts to develop a system of prevention and combatting of trafficking in humans, Poland has adopted new National Action Plans to Combat Human Trafficking for 2013–2015 and 2016–2018.

40. A new document entitled "Algorithm of Identification and Handling of Victims of Human Trafficking Who Are Minors for Police Officers and Border Guards" was released in 2015 and distributed to the police and the border guards. The document was consulted with NGOs. It describes the identification procedure, taking into account the specificity and parameters of contemporary forms of trafficking in children, as well as the course of action in handling victims who are minors.

41. The new Foreigners Act (of December 2013) simplifies the procedures governing the stay of foreigners who are victims of human trafficking.

**Fight against terrorism (recommendations 122, 123, 124)**

42. Poland has signed the Additional Protocol to the CoE Convention on the Prevention of Terrorism of 22 October 2015. The Convention provisions concerning criminal law were

implemented in the Act of 10 June 2016 on Anti-Terrorist Activity, which added the following crimes to the CC: participation in training enabling a terrorist crime and crossing the border of Poland to commit a terrorist crime in another country. In addition, a new solution provides immunity in the event of foregoing certain crimes related to terrorist activity.

43. The Krakow Regional Prosecutor's Office investigates alleged crimes related to alleged operation of the *CIA's secret detention centres* in Poland. It involves the abuse of power by public officials at different locations in Poland between 2001–2005 by allowing the operation of custodial facilities in Poland where suspected terrorists were detained for more than seven days in violation of the law.

44. The investigation to date has compiled extensive evidence, both unclassified and classified (the latter is crucial), which is, however, still in the process. The case involves a number of requests for international legal assistance, among others addressed to the USA.

45. Given the special profile of the investigation, it must be classified. Although some of the on-going investigative work and the findings to date are classified, representatives of the victims have access to the files, participate in some of the work, and exercise their procedural rights.

**Lustration (vetting) proceedings**

46. Lustration (vetting) is currently governed by the *Act of 18 October 2006 on Disclosure of State Security Organs' Documents of 1944–1990 and their Content*. The Act implemented amendments affecting the exercise of the right to fair process by those subject to lustration (***recommendation 38***). Among other things, proceedings take place before regional courts, and no longer before the Warsaw Appeal Court, which required those subject to lustration to travel long distances; to fully safeguard procedural rights and human rights, those subject to lustration now have access to all the rights available to suspects/the accused under the Polish law on criminal procedure; major changes include a new rule whereby lustration proceedings are public, unless those subject to lustration request *in camera* proceedings in whole or in part; the files of lustration proceedings are also public, which allows the party to use the entire evidence in its defence; first and second-instance court judgements are reasoned and served to the party.

47. Amendments have been made to provisions governing the procedure of disclosing classified materials during court proceedings. The new provisions have completely changed the position of those subject to lustration. The *Regulation of the Minister of Justice of 20 February 2012 concerning the method of handling interview minutes and other documents or objects subject to the confidentiality of classified information or professional information* allows for disclosure of classified materials, taking notes, making transcripts, copies, extracts, and using such notes, copies, transcripts and extracts at a court hearing or sitting.

48. In view of steps taken by the Government, the CoE Committee of Ministers concluded that the Government fulfilled all its obligations and considered its judgments to have been implemented (cf. Resolution CM/ResDH(2014)172). It should be noted that the ECtHR has not communicated new complaints in this regard to the Government. It follows that there are no more issues relating to the lustration process pending in Poland.

**Liberalisation of laws on right to freedom of expression**

49. The Ministry of Justice (MJ) is not conducting any legislative work to decriminalise the act defined in Article 212 of the CC (recommendation 100).

50. The right to freedom of expression and the freedom of the mass media are among the key principles enshrined in the Constitution. These principles are clarified in the statues, in particular the Radio and Television Broadcasting Act and the Act – Press Law. The provisions of those Acts safeguard mass media plurality and broad access of the audience to different media. Further work is under consideration to enhance mass media plurality and broaden access to different media (recommendation 101).

## B. Ombudsman - the Commissioner for Human Rights (recommendations 32, 33, 34, 35)

51. Salaries in public institutions have been frozen since 2009 but the office of the CHR was an exception. In 2012 and 2013, the office received an additional budget (PLN 1 million and PLN 667,000, respectively) to hire new staff. The additional salary budget was linked to the execution of functions related among others to the CRPD. In 2016, the Sejm reduced the CHR's budget to 94.7% of the 2015 budget by limiting investments and salary raises; the budget of the CHR's office is proportionate to that of other public institutions.

## C. Women's rights and gender equality (recommendations 43, 44, 78, 79, 80, 81, 102, 103, 104, 105, 106, 107, 108, 109)

### Combatting violence against women (recommendations 78, 79, 80, 81)

52. One of the key changes in relation to combatting violence, including violence against women, in Poland was an amendment of the CC and the CCP which introduced prosecution *ex officio* of sexual offences defined in Articles 197–199 of the CC, i.e., rape or making one to submit to another sexual act by coercion. The Act took effect on 24 January 2014.

53. Apart from legislative amendments, the Prosecutor's Office and the police took the initiative to improve their handling of cases of sexual violence. The *General Public Prosecutor's Guidelines on the Terms of Handling Cases of Rape* were issued and took effect on 18 December 2015. On 23 July 2015, the Chief of Police issued *Guidelines No. 1 concerning certain investigation activities of police officers*. The *Police procedure of handling victims of sexual violence* was issued under *Guidelines No. 1*.

54. The Government Plenipotentiary for Equal Treatment (PET) implemented the project *Rights for victims of sexual violence: a new systemic approach. Comprehensive information services, training and actions* from December 2013 to December 2015. The objective was to improve the system for the provision of information and handling of sexual offences by the police, courts, and public prosecutors. In November 2016, the Plenipotentiary implemented the radio and online campaign *Sexual violence. It often starts with words* in order to generate communications which stressed the inadmissibility of sexual violence against women and to debunk myths and stereotypes concerning sexual violence.

### Combatting discrimination against women

55. Poland implements all relevant EU legislation concerning combatting discrimination against women and integrates its provisions into national law. The Government continues to work towards improved solutions and national laws eliminating all forms of discrimination against women, as demonstrated by reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (**recommendation 43**).

56. The National Action Programme for Equal Treatment for 2013–2016 is an important instrument of the Government's policy of equal treatment (among others, on grounds of gender). The Programme defines the goals and priorities of actions for equal treatment in the following areas: raising awareness of the general public on equal treatment, including reasons and consequences of breaches of the principle of equal treatment; preventing breaches of the principle of equal treatment; collaboration with social partners, NGOs and others to promote equal treatment (**recommendation 37**).

57. Furthermore, the PET runs a range of initiatives to prevent discrimination against women (including campaigns, consultations, youth competitions).

**Policy in support of equal pay for women and men (recommendation 44)**

58. According to Eurostat (2014), the wage gap in Poland is 7.7% to the disadvantage of women, compared to 16.1% in the EU. The Government continues to work towards equal pay for women and men. Actions focus on promotion of and information about the principle of equal pay for women and men (including campaigns), implementation of a policy in support of reconciliation of professional and family lives (including maternity leaves, parenting leaves, promotion of alternative solutions and strategies in the workplace, day care), monitoring of unequal treatment.

59. Every complaint with claims of discrimination filed with the National Labour Inspectorate is reviewed. Free-of-charge legal advice is available. The National Labour Inspectorate is also engaged in prevention and promotion.

60. Employees' rights facilitating the reconciliation of professional life and family life have been significantly extended in recent years: the list of leaves available to working parents has been extended, and parents are able to share this right. The most recent major amendment of the Labour Code (LC) in this regard took effect on 2 January 2016. The new provisions ensure that working parents can fully share the right to a leave (part of the maternity leave, parental leave).

61. The last example of the Government's initiatives is the project "Family and jobs: It pays off!" launched in 2016 to create a climate conducive to reconciliation of professional and family lives and to promote solutions in support of reconciliation of those roles.

**Participation of women in political and public life (recommendations 102, 103, 104, 105)**

62. The goals of the National Action Programme for Equal Treatment for 2013–2016 (see paragraph 56) include increased participation of women in decision-making. Key actions completed towards this goal include: support of greater political potential of women (education, mentoring programmes, networking); initiation and execution of a public debate on the benefits of balanced participation of women and men in politics (with the participation of politicians and NGOs).

**Reproductive health (recommendations 96, 106, 107, 108, 109)**

63. The right to decide responsibly about having children is safeguarded in Poland comprehensively through access to methods of conscious procreation, education, advice and healthcare (**recommendation 96**). The right is enshrined in the preamble to the *Act of 7 January 1993 on Family Planning, Protection of the Human Foetus, and Conditions of Admissibility of Abortion,* and it is reflected in the main body of the Act.

64. Under Article 4 of the Act, school curricula include knowledge of human sexual life, the principles of conscious and responsible parenthood, the value of family, prenatal life, and methods and means of conscious procreation. According to Article 2 (2) of the Act, the

central government and local governments, acting within their powers, must provide citizens with free access to methods and means of conscious procreation. Contraceptives which are medical products or medical devices are registered and available in Poland, as are medicines and medical products used during pregnancy and necessary to take care of the foetus and to provide medical care to pregnant women. Reimbursement is available for medicines containing hormonal active ingredients which may have a contraceptive effect.

65. The conditions for abortion are defined in the Act of 7 January 1993 *on Family Planning, Protection of the Human Foetus, and Conditions of Admissibility of Abortion* **(recommendations 106, 107, 108, 109)**. The Act governs issues concerning a woman's consent for abortion, and the period of pregnancy when abortion is lawful. Moreover, according to the Act, individuals covered by social security and individuals entitled to free-of-charge medical care are eligible to use free-of-charge abortion in the healthcare sector.

66. The doctor may perform an abortion where: the pregnancy poses a hazard to the life or health of the pregnant woman; prenatal diagnosis or other medical indications suggest a high risk of severe and irreversible impairment of the foetus or an incurable life-threatening disease of the foetus; there is a reasonable suspicion that the pregnancy is the result of a crime.

67. The *Act of 6 November 2008 on the Rights of Patients and the Commissioner for Patients' Rights* (CPR) introduced into the Polish legal system the right of patients to raise reservations about the opinion or judgment of a physician. Reservations may be raised where the opinion or judgment affects the patient's rights or obligations under the law. The right is an effective remedy, among other things, for women who have been refused an abortion (under the circumstances laid down in the Act), a referral to prenatal diagnosis, or a prenatal diagnosis upon referral. Reservations against the opinion or judgment of a physician may be filed with the Medical Board of the CPR.

68. It should be noted in the context of patients' rights under the *Act of 7 January 1993 on Family Planning, Protection of the Human Foetus, and Conditions of Admissibility of Abortion* that claims may be raised for compensation in the event of financial loss due to additional costs of raising a handicapped child paid by parents due to a violation of the parents' rights to plan the family and to have access to abortion, where caused by physicians. The issue of damages for such claims is reflected in national jurisprudence.

**Rights of child (recommendations 25, 31, 59, 83, 84, 85, 86, 111, 112)**

69. Promotion of the rights of the child and the methods of their protection is the ORC's statutory responsibility (***recommendation 31***). The Ombudsman's initiatives help to raise and reinforce awareness of the rights of the child among children and adults. A range of initiatives taken every year promote the rights of the child. Key initiatives include: promotion of the rights of the child at the Ombudsman's meetings with children and young people, regular social campaigns, conferences, the National Day of the Rights of the Child, and support for projects promoting the rights of the child.

70. The Ombudsman in partnership with the MJ, the Ministry of the Interior, the Prosecutor's Office, the Ministry of Labour and Social Policy, the Ministry of National Education and the Central Police Headquarters, released the "Guidelines for action to the benefit of the child" as guidance for officers in operations involving children.

71. The rights of the child are taught at all levels of education in ways aligned with age, cognitive abilities, and social experiences of pupils.

**Protecting children against violence, exploitation and neglect**

72. Article 96.1 of the Family and Guardianship Code prohibits corporal punishment (***recommendation 83***).

73. The 2011 Act on Support for Family and Alternative Care Systems obligates local governments and public institutions to support families facing problems with care and education of children. Families are supported through working with the family and providing assistance in care and education of children. Assistance involves day care services including care and education of children, assistance in learning, free time activities, games and sports, as well as hobbies. Special day care facilities offer social therapy, therapy, correction, compensation and logopedics services. Families in difficulty may use the assistance of a support family. The family assistant helps the family improve its situation, instructs the family in household management methods, and helps the family resolve problems with raising children. The objective is for the family to attain a fundamental level of stability enabling it to raise the child.

**Combatting sexual exploitation of children (recommendations 84, 85, 86)**

74. Poland has introduced specific categories of offences in the amendment of 5 November 2009 to harmonise Polish law with the Lanzarote Convention.

75. Polish criminal law prohibits sexual intercourse with minors under 15, other sexual activities involving such persons, or coercing such persons to submit to or make such activities. It penalises among other things presenting pornography to minors under 15, soliciting minors for sexual intercourse or other sexual activity, and promoting paedophilia.

76. An amendment of the CC and the CCP effective in January 2014, reinforced protection of minors who are victims or witnesses against the adverse impact of repeated interviews during criminal proceedings.

**Protecting children against poverty**

77. According to the Act of 7 September 1991 *on the Educational System*, students are offered diverse forms of support including: financial assistance including social benefits (maintenance grants paid by the State annually amount to ca. PLN 404 million; assistance is paid to more than 500,000 students), the Prime Minister's scholarships (ca. 4,000 students annually; PLN 11 million earmarked annually for the scholarships), the minister for education's scholarships (one-off financial awards), scholarships for learning or sporting achievements.

78. Assistance in child care and raising children is offered to parents under the 2011 Act on Care of Children Under Three Years of Age. It helps to establish crèches and promotes alternative care solutions.

79. Support for parents taking care of disabled children has increased since 2014: the amount of nursing benefits has been raised.

80. The thresholds of income criteria of eligibility for family benefits and the amounts of family benefits were raised in 2015–2017. Since 2016, parents who are not eligible for a maternity allowance are paid a parental allowance for one year after birth.

81. A Big Family Card was introduced in 2014 to support families with many children in creating adequate conditions of the development of children. The card offers discounts among other things in railway transport, cultural institutions, sports centres, and shopping. More than 1.6 million cards have been issued. The card is accepted by more than 1,400 operators.

82. The "Family 500+" Programme was launched in 2016. The programme pays a PLN 500 child allowance for the second and each subsequent child in the family irrespective of the family's income level. The benefit is also available for the first child provided that the family's income is below a threshold (increased for children with disabilities).

## D. Rights of people with disabilities

83. The Government works toward improved exercise of rights of people with disabilities by undertaking initiatives in support of social and professional activity of people with disabilities, development of their self-sufficiency, and social benefits.

84. Research is underway looking into potential further modifications of the support system for people with disabilities, their families and caretakers: a task force for systemic solutions for caretakers of people with disabilities was appointed in January 2016 and a task force for solutions to improve the situation of people with disabilities and their family members (in particular access to education, culture, employment and healthcare) was appointed in September 2016. The strategy for people with disabilities for 2017–2030 has been in the drafting since 2016.

## E. Rights of sexual minorities

**Combatting discrimination and violence on grounds of sexual orientation – recommendations 66, 68, 70, 71**

85. The prohibition of discrimination in political, social and economic life on all grounds is part of the Polish legal system enshrined in Article 32 (2) of the Constitution. The Polish legal system, considered holistically, safeguards broad protection of the principle of equal treatment on many levels.

86. Protection against discrimination should be considered in the first place in the context of protection of personal rights safeguarded by civil law. In the current legal status quo, this matter is governed by Article 23 of the Civil Code. It defines personal rights by providing an open-ended list of designations including reputation, freedom of conscience, name and image.

87. The aforementioned provisions imply that protection of personal rights is comprehensive as it may be exercised in many ways using diverse remedies. It may be financial or non-financial in nature.

88. Further to the foregoing, it should be noted that the applicable legislation offers comprehensive protection of any person whose personal rights have been violated or put at risk. This includes two types of non-financial claims: to cease and desist, and to take measures necessary to eliminate the violation of personal rights. Furthermore, it provides that financial protection as compensation may be adjudicated in favour of the victim or a charity in each case of violation of (or risk to) personal rights, as well as damages where a financial loss is incurred due to the violation of personal rights.

89. According to Article 11.3 of the LC, any discrimination in employment, including on grounds of sexual orientation, either direct or indirect, is prohibited. Employees have equal rights for equal performance of the same obligations (**recommendation 70**). The provisions of the LC concerning compensation for a violation of the principle of equal treatment in employment apply in the event of damage caused by discrimination on grounds of sexual orientation. The Act of 3 December 2010 implementing certain EU legislation on equal treatment prohibits discrimination (among other things on grounds of sexual orientation) against individuals who work under civil law contracts.

90. Protection against discrimination is safeguarded by the Act on Promotion of Employment and Labour Market Institutions. The Act on Promotion of Employment and Labour Market Institutions provides for criminal liability in the event of violation of the principle of equal treatment. Certain EU legislation on equal treatment applies in proceedings involving violation of the principle of equal treatment.

91. The National Labour Inspectorate takes three types of actions to enforce the legislation on equal treatment in employment: prevention, advisory, and monitoring of employers accused of discriminatory practice. Criminal law and labour law, as well as a range of specific statutes, include safeguards of the prohibition of discrimination.

## F. Rights of national minorities and migrants

### Integration of Roma community and combatting discrimination against Roma

92. The key part of assistance for the Roma community is the Programme of integration of the Roma community in Poland for 2014–2020 (in continuation of the initiatives in 2004–2013). Funding is mainly provided from the State budget at PLN 10 million per annum.

93. The Programme's goal is to improve integration of the Roma community in civic society by providing support in four areas: education and cultural education (improved participation in education of pupils and students of Roma origin, measures improving awareness about the Roma community); housing; promotion of employment; and healthcare (**recommendation 115**).

94. Education is a priority as it may have a systemic impact improving education and job opportunities of the Roma. The Polish educational system gives Roma children and youth full access to pre-school education as well as education in public schools at all levels of education and in all types of schools.

95. If necessary, additional free-of-charge make-up classes of the Polish language (for Roma pupils) and other make-up classes are offered.

96. Educational regulations provide for the option of hiring Roma education assistants in schools (persons of Roma origin) to provide caretaking functions and serve as liaisons between schools and the parents of Roma pupils, as well as auxiliary teachers trained in teaching and education of bicultural and bilingual pupils.

97. A broad range of measures in support of the education of Roma pupils (e.g., provision of school kits, community day care, access to pre-school education, scholarships for pupils and students of Roma origin) are taken under multiannual government programmes (currently, *Programme for 2014–2020*).

98. The implementation of the recommendation to increase access to bilingual education faces difficulty. The law allows for education in the Roma language as a language of an ethnic minority; however, the Roma living in Poland are not interested in exercising this right. This derives from the cultural system which prohibits the Roma from teaching the language outside of the community.

### Promotion and protection of rights of minorities, including education, economic rights, employment (recommendations 114, 117)

99. According to Article 70 of the Constitution, everyone has the right to education and the public authorities ensure universal and equal access to education. Public schools are a responsibility of local governments. As a rule, compulsory education starts at the beginning

of the school year in the calendar year when the child turns seven. A child aged six is only required to undergo a one-year pre-school course.

100. According to Article 68 of the Constitution, everyone has the right to health protection and the public authorities ensure equal access to healthcare services financed with public funds.

101. Measures have been continued to protect, preserve and develop the cultural identity of minorities by providing special-purpose grants in the amount of PLN 11,197,000.00 in 2014, PLN 12,185,921.00 in 2015 (among other things, for the publication of magazines and books, organisation of festivals, concerts, etc.) and investments in the amount of PLN 1,898,000.00 in 2014, PLN 2,146,831.00 in 2015 (e.g., construction, repairs, purchase of equipment, etc.). Grants have also been provided in the amount of PLN 1,864,854.00 in 2014 and PLN 1,904,000.00 in 2015 to support the statutory activity of minority organisations; replacement of information boards has been financed as a result of adding names of towns and physiographical objects in minority languages (PLN 205,923.56 in 2014, PLN 177,754.66 in 2015).

102. The Government takes steps to prevent the closing by local governments of small (cost-intensive) schools with instruction in minority languages and schools which offer other forms of language learning, by providing financial mechanisms which reimburse the additional cost of such schools to the entities responsible. The mechanism was extended in 2013 by contributing additional funding for schools with instruction in minority languages. Additional budgets provided to entities responsible for schools which offer language learning or instruction in minority languages are rising year by year despite a demographic downturn. The number of such schools in Poland has also risen.

**Detention conditions of migrants (recommendations 118, 119, 121)**

103. In 2013–2015, major changes were implemented in the operation of guarded centres for foreigners and the conditions of stay of foreigners. As of 2013, the following changes have been gradually put in place:

- the profile of the centres has been defined, aligning their scope of operation with the existing infrastructure, the migration conditions, and the capacity represented by the staff of the centres, among other things to safeguard compulsory education of eligible children;
- the conditions of stay have been standardised by drafting a standard document which governs the conditions (translated into 15 foreign languages);
- measures have been taken to minimise the regime for foreigners;
- the working hours of the medical staffs have been extended, third-party psychologists have been hired, relations have been established with addiction treatment centres;
- social workers (responsible among other things for monitoring the psychological and physical condition of foreigners) and return officers (providing foreigners with current information about the status of pending administrative proceedings) have been appointed among the border guards working in guarded centres;
- training for officers working in guarded centres has been extended to include courses in rare foreign languages among other things.

104. Police officers working in all guarded centres are regularly trained, among other things in protection of human rights, cultural differences, and the identification of vulnerable groups.

105. Access to medical services (basic and special) in guarded centres for foreigners is no different from medical services available to Polish nationals in terms of the procedure of access and quality.

106. Minors attending schools are given textbooks and necessary school supplies (including among other things notebooks, pencils, etc.). Furthermore, officers and educational workers in guarded centres who have a pedagogical background offer extramural activities and education accommodating the situation of the minors.

107. The new Foreigners Act (December 2013) and amendments of the Act on Granting Foreigners Protection in the Territory of Poland provide solutions which prohibit the placement of foreigners who are minors without a guardian and seek international protection and restrict the placement of foreigners who are migrants in guarded centres for foreigners.

108. The Foreigners Act of December 2013 provides for preferential application of measures which are alternatives to detention, resulting in a significant reduction in the number of foreigners who are placed by courts in a guarded centre or detention for foreigners.

109. The Regulation of the Minister of Education of 9 September 2016 *concerning education of non-Polish nationals and Polish nationals educated in schools of the educational system of other countries* allows entities responsible for public schools to establish preparatory classes for individuals arriving from abroad who are subject to compulsory education or compulsory learning if they do not speak Polish or speak Polish insufficiently to use education or require an educational process adjusted to their educational needs and organisational forms supporting effectiveness of such education. A preparatory class may be established by an entity responsible for a public school during the school year as well. This solution is relevant in the event of concurrent arrival in the school of a large number of pupils from abroad, e.g., children of persons seeking international protection or evacuated people. Preparatory classes may also be established in schools where children staying at border guard detention centres are pupils; and classes may be offered in the centres. As a rule, education in a preparatory class continues until the end of the school year when the pupil was enrolled, and it may be shortened or extended, but by no more than one school year. The Regulation also defines the organisation of work in a preparatory class, in particular the number of hours of instruction, including compulsory three hours of the Polish language taught as a foreign language, the maximum number of pupils per class (15 persons), ensuring an individual approach for each pupil. Just as before, pupils also have the right to additional classes of the Polish language – at least two hours per week, as well as additional make-up classes.

## G. Right to privacy, marriage and family life, combatting domestic violence (79, 80, 81, 96, 98, 99)

110. The legality of the stay of the parents of a child born in the territory of Poland is irrelevant to the registration of the birth in Poland. A new Act – Law on Certificates of Civil Status – which took effect in March 2015, largely retained the rules of birth registration (recommendations 98, 120).

111. If a birth takes place in the territory of Poland, it is registered in the civil status register. Births are registered either based on a report of the event to the head of the civil registry office by an eligible person or proxy, or ex officio by the head of the civil registry office if the eligible person or proxy fails to report the birth of a child to the civil registry office within 21 days of the issue of the birth card. In such a case, the child's birth certificate is issued on the basis of a document submitted by the medical service provider.

**Domestic violence (recommendations 79, 80, 81, 83)**

112. Poland combats domestic violence with full determination. The use of corporal punishment by parents and guardians was banned in 2010. Other safeguards implemented in 2010 include a restraining order for the perpetrator, the compulsory eviction of the perpetrator, mandatory reporting of domestic violence to the authorities, and the "Blue Card" procedure.

113. In particular, work with families affected by domestic violence has been extended in recent years. The new National Programme of Preventing Domestic Violence for 2014–2020 covers a range of initiatives in response to the current challenges.

114. There are 35 special support centres for victims of domestic violence in operation. In 2015, 7,454 individuals used their services. The centres offer medical, social, psychological and legal support. The special support centres provide assistance free-of-charge 24/7. Assistance is available without referral, for a period of three months, with an option of extension of the stay.

115. Information about the advisory services is available on the websites of central institutions and local governments. The central administration also provides information including a free-of-charge guidebook for victims of violence as well as leaflets. Training is available to different target groups (e.g., the police, teachers, the healthcare sector, NGOs) including among other things the identification of domestic violence, and legal acts relating to prevention of domestic violence.

116. The programme "Prevention of Domestic Violence and Violence on Grounds of Gender" is under implementation, aimed at raising awareness of domestic violence by:

- raising awareness and sensitising the general public to domestic violence;
- improving the skills of responsible services tackling domestic violence;
- improving the efficacy of interventions and reinforcing prevention of domestic violence;
- aligning the institutional infrastructure with the needs of victims of domestic violence.

## H. Equality and non-discrimination

**Government Plenipotentiary for Equal Treatment (recommendations 30 and 53)**

117. The PET has the responsibilities defined in the Act of 3 December 2010 implementing certain EU legislation on equal treatment.

118. The National Action Programme for Equal Treatment for 2013–2016 is the main instrument of the Government's equal treatment policy. It is the first horizontal strategy of the Government for equal treatment in all areas of social life. It is implemented by all ministries, the Chancellery, voivodship officers and selected central institutions in cooperation with local governments and NGOs. The Programme is coordinated by the PET. The Programme is under evaluation in the second half of 2016.

119. In 2014–2016, the PET implemented a range of projects devoted to different aspects of non-discrimination. The Plenipotentiary also takes action based on findings and reports of citizens, groups of citizens, and NGOs.

**Preventing racism, xenophobia and hate crimes, combatting racist crimes (recommendations 40, 45, 46, 47, 48, 49, 54, 55, 56, 57, 60, 62, 65)**

120. The Ministry of the Interior and Administration (MIA) has a unit responsible for the monitoring of events which could constitute hate crimes. The monitoring aims to source information about the specificity of hate crimes in Poland and the activity of law enforcement services, in particular the police, in cases of hate crimes. In view of the need to ensure a more comprehensive sourcing of data on hate crimes, a new system was put in place in 2015 to compile hate crime data, which is now shared by the police and the MIA and covers all proceedings opened in cases of hate crimes. The new data registration tool supports the collection of detailed information about the specifics of events and the activity of the police.

121. The police understand the need to intensify the fight against online hate crimes. Some of the local police departments have established task forces responsible for the work or special investigative groups.

122. Measures have been taken to encourage hate crime victims and witnesses to report the crimes to the police. The project Migrants against Hate Crimes: How to Enforce Your Rights, co-financed by the European Union, was completed in 2015 and included among other things a social campaign addressed to foreigners entitled Racism. Say it to fight it.

123. Criminal law as well as a range of specific statutes safeguard the principle of non-discrimination.

124. According to Article 53 § 2 of the CC, when deciding on the penalty, the court must always take into account the motivation of the perpetrator, including racist motivation. Article 53 of the CC applies to all crimes defined in the Code, including among other things battery and slander. The foregoing provisions are general and do not specify or restrict the motivation which the court must take into account. This is particularly important in today's fast-changing reality where new social trends emerge, including discriminatory trends. This ensures that any such motivation will always be considered by the court and that it will not require time-consuming legislative amendments at each time.

125. The crime defined in Article 212 of the CC includes among other things libel against an individual or a group, attributed with behaviour or qualities which may denigrate them among the general public or expose them to a loss of trust required in a given position, profession or activity. Furthermore, libel in the mass media is a qualified form of the crime. Hence, if a person resorts to libel in order to denigrate a person or a community on grounds of ethnicity, nationality or race, this is penalised. In turn, insult, which is penalised under Article 216 of the CC, is an offence against human dignity understood as the individual's subjective sense of self-worth. In that case, the insulted person may claim protection under Article 216 of the CC. Furthermore, Article 217 of the CC provides protection against violation of bodily integrity.

126. The Polish CC penalises incitement or glorification of any crime. Furthermore, in view of the special importance of hate crimes, the Polish legislator has introduced special liability for incitement of hate crimes. Liability is stricter for public incitement or public glorification of extermination of a national, ethnic, racial, political, religious group or a group with a specific outlook, and incitement or glorification of violence or illegal threat against a group or an individual on grounds of national, ethnic, racial, political, religious identity or lack of religion.

127. Incitement of hate on grounds of national, ethnic or racial difference is also a crime, as are among other things dissemination, production, fixation, possession, presentation of print, recording or other object containing such content. The term "incitement of hate" under the CC is understood very broadly. According to the definition coined by the

Supreme Court, incitement of hate includes any statement arousing strong resentment, anger, non-acceptance or hostility against an individual or a social or religious group. This provision also applies to statements which, due to their form, perpetuate a negative attitude, emphasising the privileged position and superiority of a nation, ethic group, race or religion.

128. The Prosecutor Office regularly monitors cases of racial or xenophobic crimes, prepares reports on such cases, and distributes conclusions from such reports to all regional public prosecutor offices, including comments on irregularities identified in proceedings.

129. The letter of the General Public Prosecutor of 1 July 2013 orders every district public prosecutor's office to appoint one local public prosecutor's office responsible for proceedings involving racial and xenophobic crimes in the jurisdiction of the local public prosecutor's office (52 local public prosecutor's offices have been so appointed).

**Training related to fighting discrimination and hate crimes (recommendation 50)**

130. MIA coordinates the implementation of the Law Enforcement Officer Programme for fighting hate crimes (LEOP). The objective is to improve the skills of police officers in operations involving events which could constitute hate crimes, to train them in handling the victims of hate crimes, and to sensitise the officers to discrimination, including discrimination by police officers. Training of police officers has been delivered under the Programme since 2009. More than 86,000 police officers have participated in such training from the launch of the programme until the end of 2015.

131. The Programme was updated and extended in 2016 in line with the recent OSCE ODIHR guidance. The new version of the Programme entitled "Training Against Hate Crimes for Law Enforcement" has been approved for implementation as a special course in the police force. The first training rounds under the new programme took place at the turn of August to September 2016.

132. These measures also include workshops in fighting crimes of prejudice, implemented since 2015 by the Criminal Department of the Central Police Headquarters in cooperation with the MIA, addressed to officers of investigative units of the criminal police responsible for cases of hate crimes. The training programme focuses on specific complex issues of prosecuting hate crimes.

**Preventing discrimination against migrants (recommendations 51, 63)**

133. A new Foreigner Act effective since May 2014 implemented a range of human rights safeguards.

134. Foreigners may now be granted a temporary residence permit provided that:

- the foreigner's residence in Poland is necessary to respect the right to family life in the meaning of the ECHR , and the foreigner resides in Poland illegally; or
- the foreigner's departure from Poland would violate the rights of the child defined in the CRC to the extent causing a major risk to the child's psychological and physical development, and the foreigner resides in Poland illegally;
- the circumstances referred to in order to seek the permit justify the foreigner's residence in Poland for a period of more than three months.

135. A new concept has been introduced: a permit to reside in Poland for humanitarian reasons. The residence permit for humanitarian reasons is a residence permit granted to foreigners with no time limit if the foreigner could only be returned to a country where the foreigner's right to life, freedom and personal security would be at risk, the foreigner could be exposed to torture or inhuman or degrading treatment or punishment, the foreigner could

be subject to forced labour, the foreigner could be deprived of the right to due process or penalised without a legal basis, the return would violate the foreigner's right to family or private life, or the return would violate the rights of the child to the extent causing a major risk to the child's psychological and physical development. The grounds of granting the residence permit for humanitarian reasons are interpreted in accordance with the European Convention on Human Rights and Fundamental Freedoms and, in the case of minors, in line with the CRC.

136. In order to prevent illegal stay of foreigners in Poland, foreigners are allowed a 30-day period to leave Poland, for instance where the foreigner is refused a residence permit. The foreigner's stay in Poland in that period is lawful.

137. New foreigner return procedures have been introduced in Poland. Previously applicable expulsion decisions and return decisions have been replaced by return decisions under Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. The voluntary return deadline set in the return decision is normally between 15 and 30 days and may be extended to one year (hence, the maximum deadline under the Foreigners Act is longer than the minimum period of seven days allowed in Directive 2008/115/EC).

138. Provisions have been implemented which govern the participation of NGOs providing assistance to foreigners in the actual return of foreigners from Poland, as well as provisions on financial assistance for foreigners during voluntary returns.

139. The Act of 10 September 2015 amending the Act on Granting Foreigners Protection in the Territory of Poland and certain other Acts, which took effect in November 2015, implements the "asylum package", in particular the Asylum Procedure Directive and the Reception Conditions Directive (Directive 2013/32 and Directive 2013/33). The amendment was aimed at strengthening the rights of persons seeking international protection, in particular minors without a guardian and persons with special needs. The amendment introduced a rule where the court appoints a guardian for a minor without a guardian within no more than three days. As a result, the legislator safeguards the practical exercise of the rights. Furthermore, following the effective date of the amendment, the head of the Office for Foreigners (Office) has a new responsibility: to provide persons seeking international protection with free-of-charge legal information, which also reinforces the safeguards of the rights of foreigners.

140. Antidiscrimination measures, in particular measures taken at the reception centres for persons seeking international protection, are taken regularly as a part of the standard procedures applicable in centres for foreigners, and in a range of projects and programmes addressing specific issues. These cover prevention, actions in response to occurring events, and training of the staff in prevention of exclusion and all forms of discrimination. The issues raised in the recommendation are an important on-going part of the monitoring activities of the staff of the centres, and any problems are eliminated on an on-going basis. In such activities, the Office co-operates with local partners, including NGOs, as well as the local offices of UNHCR and IOM.

## V. Achievements, best practice, challenges and limitations in implementation of accepted recommendations

141. The Government's first horizontal National Action Programme for Equal Treatment has been under implementation since 2013, representing major progress in equal treatment policies. The next National Action Plan against Human Trafficking for 2016–2018 has been approved as an important part of coordination of activities in this area.

142. The OSCE ODIHR has welcomed the implementation of the LEOP in Poland and considers it to be good practice.

143. The efficacy of solutions safeguarding human rights protection has been improved among other things by actions aimed at raising the awareness of the general public (including social campaigns of the PET) and training of services active in areas involving human rights. Examples:

- On 6 July 2015, the Minister of the Interior approved the Strategy of actions preventing human rights violations by border guards, which identified the key areas of human rights safeguards in the border guard service and the necessary actions;
- Human rights have been added to all border guard qualified training programmes (basic training, sub-officer, junior officer and senior officer training) and management training.

144. Major changes were implemented among other things in the Foreigners Act of 12 December 2013. The changes relate to the application of detention measures with respect to foreigners (guarded centres for foreigners and detention for foreigners) and allow the competent border guard authorities to release foreigners from guarded centres and detention centres for foreigners at the request of the foreigner or on their own initiative without having to apply for a court decision, as well as measures which are alternatives to the detention of foreigners (relevant decisions are issued by border guard authorities and district courts) including mandatory regular reporting to border guard authorities, bail in an amount at least equal to twice the minimum wage under the minimum wage regulations, mandatory deposit of travel documents with the competent authority, and mandatory residence at a specific location until the return decision is enforced.

## VI. Priorities, initiatives and commitments planned to prevent challenges in implementation of recommendations and improvement of human rights safeguards

145. Since the second UPR, Poland has signed and/or ratified a range of important international conventions. Their comprehensive implementation is currently one of the top priorities.

146. We are planning to continue initiatives and assistance programmes operated by the Office under the Asylum, Migration and Integration Fund and other financial mechanisms. We expect to work against racial discrimination and xenophobia in cooperation of the central government and local governments, educational institutions, NGOs and foreign partners.

147. According to the requirements of the Act on the Educational System, which provides that education in Poland follows the principles enshrined in the Constitution and the guidance of the Universal Declaration of Human Rights, the ICCPR, and the Convention on the Rights of the Child, human rights and the rights of the child have been and will remain a part of the school curricula.

148. It is a priority of the PET to plan actions in continuation of the National Action Programme for Equal Treatment for 2013–2016.

149. The priorities of the PET and the PCS include cooperation with NGOs and extension of the range of partner organisations.

150. Work is advanced on a draft national action plan on the UN Guidelines implementation on business and human rights.

*Notes*

[1] The head of central government institutions at regional level.
[2] See also para. 35 of this chapter.